

TAC 97-01

TRANSPORTATION ACQUISITION CIRCULAR

DATE ISSUED: October 2, 1996

Transportation Acquisition Circular (TAC) 97-01 SUMMARY OF ITEMS

TAC 97-01 is issued under the authority of the Transportation Acquisition Regulation (TAR) and, unless otherwise specified, all material contained in this TAC is effective on the date issued. The TAR is hereby amended as specified below:

Item I--Editorial and administrative changes

Subpart 1201.1 is amended by redesignating its section numbers to coincide with the Federal Acquisition Regulation (FAR) and to add Transportation Administrative Service Center (TASC). The caption of Subpart 1201.6 is changed to also coincide with FAR coverage and the Part 1253 Table of Contents was changed to correct the title of form DOT F 4220.45.

Replacement pages: Structure of the TAR to the Subpart Level (pages 1 thru 4); TOC, 1201-1, 1201-2 and 1201-5; TOC, 1233-1; and TOC, Part 1253.

Item II--Change to delegation authority for individual deviations

Subpart 1201.403 was amended to permit the Head of the Contracting Activity to delegate the authority to grant individual deviations.

Replacement pages: 1201-5.

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Item III--Deletion of Subpart 1205.101 coverage

Subpart 1205.101(a)(2) was modified to delete language which is redundant due to a FAR change. In addition to operating administration (OA) discretionary requirement, Subpart 1205.101(a)(2)(iii) is added to provided the operating administration's the option of requiring posting of solicitations expected to exceed \$25,000.

Replacement page: 1205-1.

Item IV--Deletion of TAR Subpart 1209.4

Subpart 1209.4 is deleted from Part 1209 in its entirety.

Replacement pages: TOC, 1209-1.

Item V--Deletion/restructuring of coverage

Part 1210 has been retitled to conform to FAR changes. Coverage on priorities and allocations has been moved to Part 1211 to conform to FAR restructuring.

Replacement pages: Part 1210, Market Research, RESERVED.

Item VI--Change Part 1211, Acquisition and Distribution of Commercial Products (Reserved) to read TAR Part 1211, Describing Agency Needs, add a Table of Contents page, add new TAR Subpart 1211.1, and add new TAR section 1211.103.

Restructuring of coverage.

Replacement pages: TOC, 1211-1 & 1211-2, USCG TOC, USCG 1211-1 (added).

Item VII--Commercial Items

Title of Part 1212 changed to be consistent with FAR Part 12. Text deleted from TAR Part 1212 and included as appropriate, in other parts in accordance with FAR Parts 10, 11 and 12 restructuring.

Replacement page: RESERVED.

Item VIII--Small Purchase and Other Simplified Procedures

Solicitation provisions and clauses provided for USCG bar coding requirements.

Replacement page: USCG 1213-1.

Item IX--Contracting by Negotiation

Change titles of TAR Subpart 1215.804 to "Cost or pricing data and information other than cost or pricing data", Subpart 1215.804-2 to "Requiring cost or pricing data." and deleted text at 1215.407 and 1215.804(a)(5) and modified text at 1215.804.2(b). Changed title of TAR Subpart 1215.804-6 to "Instruction for submission of cost and pricing data or information other than cost or pricing data" in accordance with FAR.

Replacement pages: TOC, 1215-1 & 1215-2.

Item X--Designation of Task and Delivery Order Ombudsmen

Subpart 1216.5 is added to Part 1216 to implement the Ombudsmen task and delivery order requirements of FASA.

Replacement pages: Structure of the TAR to the Subpart Level (page 2), TOC, and 1216-1.

Item XI--Small Business Programs

Part 1219 and subpart 1219.7 titles were changed to coincide with the changes to the FAR. Editorial changes were made to Appendix A of Part 1219.

Replacement pages: TOC, 1219-1 & 1219-2.

Item XII--Labor Surplus Area Concerns

Part 1220 title was changed for DOT purposes because Part 20 of the FAR is deleted and reserved.

Replacement pages: TOC, USCG 1220-1.

Item XIII--Protection of Privacy and Freedom of Information

Subsection 1224.000 was deleted because it does not correspond with FAR 24.000. The deleted coverage is reinstated at subsection 1224.103 to coincide with FAR 24.103.

Replacement pages: TOC, 1224-1.

Item XIV--Change to correct title of TAR 1233.214 to read "Alternative dispute resolution (ADR)" and editorial correction

Change TAR 1233.214, Alternative dispute resolution, to read

"1233.214 Alternative dispute resolution (ADR)," redesignate

paragraphs (b) and (c) as (c) and (d), and delete old paragraph (d) and incorporate its contents into newly designated paragraph (d).

Replacement pages: TOC, 1233-1.

Item XV--Service Contracting

Section 1237.1 corrected the title of the subpart, changed the Coast Guard Supplement to revise the Table of Contents, add new TAR Subpart 1237.104, Personal Services Contracts, and new TAR section 1237.104-90, Delegation of Authority.

Replacement pages: 1237-1, TOC (USCG TAR SUP), 1237-1 (USCG TAR SUP).

Item XVI--Transportation

Part 1247 clause numbers were changed to correct erroneous numbering.

Replacement pages: 1247-1.

Item XVII--Solicitation provisions and contract clauses

Part 1252 clause numbers were changed to coincide with the changes made under Part 1247.

Replacement pages: TOC, 1252-23 thru 1252-25.

Item XVIII--TAR Matrix

Clause numbers were changed to coincide with the changes made under Part 1247.

Replacement pages: 3 and 4.

TAC 97-01 FILING INSTRUCTIONS

Remove Pages

TOC, Part 1233
1233-1

Structure of the TAR
to the Subpart Level
(pp. 1 thru 4)

TOC, Part 1201
1201-1 & 1201-2
1201-5

1202-1

1205-1

TOC, Part 1209
1209-1 & 1209-2

TOC, Part 1210
1210-1
USCG TOC, Part 1210
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Part 1211, RESERVED

TOC, Part 1212
1212-1

USCG Part 1213
1213-1

TOC, Part 1215
1215-1 & 1215-2

TOC, Part 1216
1216-1

TOC, Part 1219
1219-1 & 1219-2

TOC, Part 1220
(USCG Supplement)
1220-1 (USCG Supplement)

TOC, Part 1224
1224-1

Insert Pages

1233-1

Structure of the TAR
to the Subpart Level
(pp. 1 thru 5)

TOC, Part 1201
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TOC, Part 1209
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Part 1210, RESERVED

TOC, Part 1211
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USCG TOC, Part 1211
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Part 1212, RESERVED

USCG Part 1213
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TOC, Part 1215
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TOC, Part 1216
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TOC, Part 1220
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TOC, Part 1252
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TOC, Part 1252
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1252-1 & 1252-2
(USCG Supplement)

TAR Matrix, Pages 1 thru 4

TOC, Part 1253

Insert Pages

TOC, Part 1237
(USCG Supplement)
1237-1 (USCG Supplement)

1247-1

TOC, Part 1252
1252-1 thru 1252-4
1252-23 thru 1252-25

TOC, Part 1252
(USCG Supplement)
1252-1 & 1252-2
(USCG Supplement)

TAR Matrix, Pages 1 thru 4

TOC, Part 1253

(Original signed by
David J. Litman
Senior Procurement Executive

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PART 1201

FEDERAL ACQUISITION REGULATION SYSTEM

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PART 1201

FEDERAL ACQUISITION REGULATIONS SYSTEM

SUBPART 1201.1 - PURPOSE, AUTHORITY, ISSUANCE

1201.101 Purpose.

The Department of Transportation Acquisition Regulation (TAR) establishes uniform acquisition policies and procedures, which implement and supplement the Federal Acquisition Regulation (FAR).

1201.103 Authority.

The Secretary of Transportation has delegated the authority to issue Department of Transportation (DOT) procurement regulations (i.e., the TAR) to the Assistant Secretary for Administration who has redelegated this authority to the Senior Procurement Executive (SPE).

1201.104 Applicability.

(a) Statute, the FAR, and (TAR) 48 CFR chapter 12 apply to all acquisitions within the Department unless otherwise excluded by statute, the FAR or (TAR) 48 CFR chapter 12.

(b) The following order of precedence applies to resolve any acquisition regulation or procedural inconsistency found within (TAR) 48 CFR chapter 12 or the Transportation Acquisition Manual (TAM): (1) statute; (2) FAR or other applicable regulation; (3) TAR; (4) DOT Orders; and (5) TAM.

(c) The Maritime Administration may depart from the requirements of the FAR and (TAR) 48 CFR chapter 12 as authorized by 40 U.S.C. § 474(16), but shall adhere to those regulations to the maximum extent practicable. Exceptions from the

requirements of the FAR and/or TAR shall be documented according to Maritime Administration procedures or in each contract file, as appropriate.

1201.105 Issuance.

1201.105-1 Publication and code arrangement.

(a) The TAR is published in: (1) the Federal Register; (2) cumulated form in the CFR; and (3) separate loose-leaf form.

(b) The TAR is issued as chapter 12 of Title 48 of the CFR.

1201.105-2 Arrangement of regulations.

(a) *General.* The TAR, which encompasses both Departmentwide and operating administration-unique guidance (see (TAR) 48 CFR 1201.3), conforms with the arrangement and numbering system prescribed by (FAR) 48 CFR 1.104. Guidance which is unique to an operating administration contains the operating administration acronym directly preceding the cite/page number. The following acronyms apply when regulatory coverage is written:

FAA - Federal Aviation Administration
FHWA - Federal Highway Administration
FRA - Federal Railroad Administration
FTA - Federal Transit Administration
MARAD - Maritime Administration
NHTSA - National Highway Traffic
Safety Administration
OST - Office of the Secretary
RSPA - Research and Special Programs
Administration
SLSDC - Saint Lawrence Seaway
Development Corporation
TASC - Transportation Administrative
Service Center
USCG - United States Coast Guard

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(b) *Numbering.*

(1) *Departmentwide guidance.*

(i) The numbering illustrations at (FAR) 48 CFR 1.104-2(b) apply to the TAR.

(ii) Coverage within (TAR) 48 CFR chapter 12 is identified by the prefix "12" followed by the complete FAR cite which may be down to the subparagraph level (e.g., (TAR) 48 CFR 1201.201-1).

(iii) Coverage in TAR Chapter 12 that supplements the FAR will use part, subpart, section and subsection numbers ending in "70" through "89". A series of numbers beginning with "70" is used for provisions and clauses (e.g., (TAR) 48 CFR 1201.301-70).

(iv) Coverage in (TAR) 48 CFR chapter 12, other than that identified with a "70" or higher number, that implements the FAR uses the identical number sequence and caption of the FAR segment being implemented which may be down to the subparagraph level. Subparagraph numbers/letters may not be shown as sequential, but may be shown by the specific paragraph/subparagraph implemented from the FAR (e.g., (TAR) 48 CFR 1201.201-1 contains subparagraphs (b) and (d) because only these subparagraphs, correlating to FAR, are being supplemented by (TAR) 48 CFR chapter 12).

(2) *Operating administration-unique guidance.* Supplementary material for which there is no counterpart in the FAR or TAR shall be identified using chapter, part, subpart, section, or subsection numbers of "90" and up (e.g., the U.S. Coast Guard's acronym is "USCG"; an USCG-unique clause pertaining to

"Inspection and/or Acceptance" would be designated "USCG 1252.246-90").

(c) *References and citations.* (TAR) 48 CFR chapter 12 may be referred to as the Department of Transportation Acquisition Regulation or the TAR. Cross reference to the FAR in (TAR) 48 CFR chapter 12 will be cited by "FAR" followed by the FAR numbered cite, and cross reference to the TAM in (TAR) 48 CFR chapter 12 will be cited by "TAM" followed by the TAM numbered cite. References to specific cites within (TAR) 48 CFR chapter 12 will be by the numbered cite only.

1201.105-3 Copies.

Copies of the TAR in Federal Register, loose-leaf, and CFR form may be purchased from the Superintendent of Documents, Government Printing Office, Washington, DC, 20402.

1201.106 OMB Approval Under the Paperwork Reduction Act.

(a) *Data collection by regulation.* The information collection and recordkeeping requirements contained in (TAR) 48 CFR chapter 12 have been approved by the Office of Management and Budget (OMB). The OMB Control Number for the collection of the information under 48 CFR chapter 12 is 2105-0517 which expires on April 30, 1997.

(b) *Data collection under proposed contracts.* Under the regulations implementing the requirements of the Paperwork Reduction Act (5 CFR 1320), OMB must approve, prior to obligation of funds, proposed contracts which require the collection of information from ten or more non-Federal persons or entities. Solicitations containing this type of information

and be selected for their superior expertise and acquisition knowledge. Further coordination (e.g., Offices of the Inspector General and General Counsel) beyond the TAR Council System may be recommended by the TAR Council to the SPE as deemed appropriate.

(b) Operating administration-unique regulations will not be processed through the TAR Council System, but shall be reviewed by operating administration legal counsel and submitted to M-60 for review and approval. (See (TAR) 48 CFR 1252.101 for additional instructions pertaining to provisions and clauses.)

SUBPART 1201.470--DEVIATIONS FROM THE FAR AND (TAR) 48 CFR

1201.403 Individual deviations.

The authority of the agency head under (FAR) 48 CFR 1.403 and (TAR) 48 CFR chapter 12 is delegated to the Head of the Contracting Activity or designee no lower than Senior Executive Service (SES)/Flag Officer level. However, see TAM 1201.403.

1201.404 Class deviations.

Class deviations from the FAR and (TAR) 48 CFR chapter 12 may be granted in writing by the Senior Procurement Executive unless (FAR) 48 CFR 1.405(e) is applicable.

SUBPART 1201.6--CAREER DEVELOPMENT, CONTRACTING AUTHORITY AND RESPONSIBILITIES

1201.602-3 Ratification of unauthorized commitments.

(b) *Policy.* It is the policy of DOT that all procurements are to be made only by Government officials having authority to make such acquisitions. Procurements made by other than authorized personnel are contrary to Departmental policy and may be considered matters of serious misconduct on the part of the employee making an unauthorized commitment. Consideration will be given to initiating disciplinary action against an employee who makes an unauthorized commitment.

1201.603-1 General.

Each DOT operating administration is responsible for appointing its contracting officers.

PART 1202**DEFINITIONS OF WORDS AND TERMS****SUBPART 1202.1 - DEFINITIONS****1202.1 Definitions.**

(a) *"Agency," "Federal agency," or "Executive agency"* means the Department of Transportation.

(b) *"Chief of the contracting office (COCO)"* means the individual(s) responsible for managing the contracting office(s) within an operating administration.

(c) *"Contracting activity"* includes all the contracting offices within an operating administration and is the same as the term "procuring activity."

(d) *"Contracting officer"* means an individual authorized by virtue of his/her position or by appointment to perform the functions assigned by the Federal Acquisition Regulation and the Transportation Acquisition Regulation.

(e) *"Department of Transportation (DOT)"* means all of the operating administrations included within the Department of Transportation.

(f) *"Head of the agency" or "agency head"* means the Secretary of Transportation.

(g) *"Head of the contracting activity (HCA)"* means the individual responsible for managing the contracting offices within an operating administration who is a member of the Senior Executive Service or a flag officer.

(h) *"Head of the operating administration (HOA)"* means the individual appointed by the President to manage the operating administration. (For acquisition related matters, the Assistant Secretary for Administration is the HOA for the

Office of the Secretary (OST)).

(i) *"Operating administration"* (OA) means the following components of DOT:

(1) Federal Aviation
Administration (FAA);

(2) Federal Highway
Administration (FHWA);

(3) Federal Railroad
Administration (FRA);

(4) Federal Transit
Administration (FTA);

(5) Maritime Administration
(MARAD);

(6) National Highway Traffic
Safety Administration
(NHTSA);

(7) Transportation
Administrative Service
Center, Office of the
Secretary (OST);

(8) Research and Special
Programs Administration
(RSPA);

(9) Saint Lawrence Seaway
Development Corporation
(SLSDC); and

(10) United States Coast Guard
(USCG).

(j) *"Senior Procurement Executive"* (SPE) means the Director of the Office of Acquisition and Grant Management (M-60).

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PART 1205

PUBLICIZING CONTRACT ACTIONS

SUBPART 1205.1--DISSEMINATION OF INFORMATION

1205.101 Methods of disseminating information.

(a)(2)(iii) Contracting officers shall post solicitations expected to exceed \$25,000, if required in OA procedures.

(b) DOT publishes a Procurement Forecast of planned procurements each fiscal year, which is available from the DOT Office of Small and Disadvantaged Business Utilization (S-40), 400 Seventh Street, S.W., Washington, DC, 20590.

SUBPART 1205.4--RELEASE OF INFORMATION

1205.402 General public.

It is DOT policy to furnish to the general public, upon request, the following information on proposed contracts and contract awards:

(a) Prior to the opening of sealed bids or the closing date for receipt of proposals, the names of firms invited to submit sealed bids or proposals;

(b) Prior to the opening of sealed bids or the closing date for receipt of proposals, the names of firms which attended pre-proposal or pre-bid conferences, when held;

(c) After the opening of sealed bids, names of firms which submitted bids; and

(d) After contract award, the names of firms which submitted proposals.

Requests for other specific information shall be processed in accordance with the DOT Freedom of Information Act rules and regulations ((TAR) 48 CFR 1224.202).

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PART 1209

CONTRACTOR QUALIFICATIONS

**SUBPART 1209.5--ORGANIZATIONAL AND
CONSULTANT CONFLICTS OF INTEREST**

1209.507 Solicitation provisions.

The contracting officer may insert the provision at (TAR) 48 CFR 1252.209-70, "Disclosure of Conflicts of Interest" in all solicitations for negotiated acquisitions, when simplified acquisitions procedures in (FAR) 48 CFR Part 13, are not used and when the contracting officer believes the conditions enumerated in (FAR) 48 CFR 9.507-2 warrant inclusion.

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PART 1210

MARKET RESEARCH

(RESERVED)

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DESCRIBING AGENCY NEEDS

**SUBPART 1211.6- -PRIORITIES AND
ALLOCATIONS**

1211.602 General.

(c) The USCG is the only DOT OA delegated authority under the Defense Priorities and Allocations System (DPAS) regulation (15 CFR 700) to assign priority ratings on contracts and orders placed with contractors to acquire products, materials, and services in support of USCG certified national defense related programs.

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PART 1211

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and contract clause.
(USCG)

PART 1211

DESCRIBING AGENCY NEEDS

**1211.204-90 Solicitation provision
and contract clause. (USCG)**

(a) The contracting officer shall insert the USCG clause at (TAR) 48 CFR 1252.211-90, Bar Coding Requirement, (also see (TAR) 48 CFR 1213.507-90(a)) when the bar coding of supplies is necessary.

(b) See (TAR) 48 CFR 1213.507-90 for a provision which is required when the USCG clause at (TAR) 48 CFR 1252.211-90, Bar Coding Requirement, is used with simplified acquisition procedures.

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TRANSPORTATION ACQUISITION REGULATION

PART 1212

ACQUISITION OF COMMERCIAL ITEMS

(RESERVED)

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PART 1213

SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

SUBPART 1213.1--GENERAL

1213.107-90 Solicitation provision (supplies). (USCG)

The contracting officer shall insert the USCG provision at (TAR) 48 CFR 1252.213-90, Evaluation Factor for Coast Guard Performance of Bar Coding Requirement, in requests for quotations when the USCG clause at

(TAR) 48 CFR 1252.211-90, Bar Coding Requirement, is used with simplified acquisition procedures.

SUBPART 1213.5--PURCHASE ORDERS

1213.507-90 Clauses. (USCG)

The contracting officer shall insert the USCG clause at (TAR) 48 CFR 1252.211-90, Bar Coding Requirement, in requests for quotations and purchase orders issued by the Inventory Control Points when bar coding of supplies is necessary.

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- 1215.413-1 Alternate I.
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PART 1215

CONTRACTING BY NEGOTIATION

SUBPART 1215.1--GENERAL REQUIREMENTS FOR NEGOTIATION

1215.106 Contract clauses.

The contracting officer shall insert the clause at (TAR) 48 CFR 1252.215-70, Key Personnel and/or Facilities, in solicitations and contracts when the selection for award is substantially based on the offeror's possession of special capabilities regarding personnel and/or facilities.

SUBPART 1215.4--SOLICITATION AND RECEIPT OF PROPOSALS AND QUOTATIONS

1215.413 Disclosure and use of information before award.

1215.413-1 Alternate I.

The alternate procedures at (FAR) 48 CFR 15.413-2 shall be used in lieu of the alternate procedures prescribed at (FAR) 48 CFR 15.413-1.

1215.413-2 Alternate II.

(e) The notice at (FAR) 48 CFR 15.413-2(e) shall be placed on the cover sheet of all proposals, whether solicited or unsolicited. The cite(s) under the first paragraph of the notice shall include, as a minimum, (TAR) 48 CFR 1215.413-2(f) and the cite of any OA implementing procedures.

(f) Proposals may be released outside of the Government if it is necessary to

receive the most competent technical and/or management evaluation available as long as the requirements of (FAR) 48 CFR 15.413-2(f) are met.

SUBPART 1215.6--SOURCE SELECTION

1215.612 Formal source selection.

DOT's formal source selection procedures are contained in TAM (Transportation Acquisition Manual which is stocked by the Government Printing Office), Chapter 1215, Appendix A.

SUBPART 1215.8--PRICE NEGOTIATION

1215.804-6 Instructions for submission of cost or pricing data or information other than cost or pricing data.

The contracting officer may require the submission of DOT Form 4220.44, Contract Pricing Summary, when submitting a proposal that requires a SF 1411.

SUBPART 1215.9--PROFIT

1215.970 Payment of profit or fee under contracts.

Profit or fee shall only be paid on definitized contracts and modifications. Any profit or fee earned during the undefinitized period shall be paid once the contract and/or modification, as applicable, is definitized.

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PART 1216

TYPES OF CONTRACTS

SUBPART 1216.2--FIXED-PRICE CONTRACTS

1216.203 Fixed-price contracts with economic price adjustment.

1216.203-4 Contract clauses.

1216.203-470 Solicitation provision.

The contracting officer shall insert the provision at (TAR) 48 CFR 1252.216-70, Evaluation of Offers Subject to an Economic Price Adjustment Clause, in solicitations containing an economic price adjustment clause.

SUBPART 1216.4--INCENTIVE CONTRACTS

1216.405 Contract clauses.

(a) The contracting officer shall insert the clause at (TAR) 48 CFR 1252.216-71, Determination of Award Fee, in all cost-plus-award-fee solicitations and contracts.

(b) The contracting officer shall insert the clause at (TAR) 48 CFR 1252.216-72, Performance Evaluation Plan, in all cost-plus-award-fee solicitations and contracts.

(c) The contracting officer shall insert the clause at (TAR) 48 CFR 1252.216-73, Distribution of Award Fee, in all cost-plus-award-fee solicitations and contracts.

SUBPART 1216.5--INDEFINITE-DELIVERY CONTRACTS

1216.505 Ordering.

(b)(4) Unless otherwise provided in OA procedures, the OA Competition Advocate is designated as the OA Task and Delivery Order Ombudsman.

(i) If any corrective action is needed after reviewing complaints from contractors on task and delivery order contracts, the OA Ombudsman shall provide a written determination of such action to the contracting officer.

(ii) Issues that cannot be resolved within the OA, are to be forwarded to the DOT Task and Delivery Order Ombudsman for review and resolution.

SUBPART 1216.6--TIME-AND-MATERIALS, LABOR-HOUR, AND LETTER CONTRACTS

1216.603 Letter contracts.

1216.603-4 Contract clauses.

The contracting officer shall insert the clause at (TAR) 48 CFR 1252.216-74, Settlement of Letter Contract, in all definitized letter contracts.

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1219.1005 Applicability.

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APPENDICES

Appendix A Targeted Industry
Categories

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PART 1219

| SMALL BUSINESS PROGRAMS

SUBPART 1219.2--POLICIES

1219.201 General policy.

(c) The Director, Office of Small and Disadvantaged Business Utilization (S-40), is responsible for the implementation and execution of the small and small disadvantaged business programs required by sections 8 and 15 of the Small Business Act.

SUBPART 1219.7--SUBCONTRACTING WITH SMALL BUSINESS, SMALL DISADVANTAGED BUSINESS AND WOMEN-OWNED SMALL BUSINESS CONCERNS

1219.708 Solicitation provisions and contract clauses.

1219.708-70 DOT solicitation and contract clause.

The contracting officer shall insert the clause at (TAR) 48 CFR 1252.219-70, Small Business and Small Disadvantaged Business Subcontracting Reporting, in solicitations and contracts containing the clause at (FAR) 48 CFR 52.219-9.

SUBPART 1219.10--SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM

1219.1005 Applicability.

(b) *Targeted industry categories.* DOT's targeted industry categories are shown in Appendix A.

1219.1006 Procedures.

(c) *Emerging small business set-aside.* The Office of Federal Procurement Policy published a notice in the Federal Register, dated September 13, 1991, that increased the emerging small business reserve amount for Architect-Engineer (A-E) services from \$25,000 to \$50,000. Therefore, A-E services below \$50,000 are reserved for emerging small businesses, if the conditions of (FAR) 48 CFR 19.1006(c)(1) are met.

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APPENDIX A

TARGETED INDUSTRY CATEGORIES*		FPDS Product and Service Code
(1)	Engineering Development	AT94
(2)	Systems Engineering Services (Only)	R414
(3)	Radio/TV Communication Equipment (except airborne)	5820
I (4)	Maintenance, Repair, and Rebuilding of engines, turbines, components and weapons equipment	J028/ J010
(5)	ADP Central Processing Units:	
	Analog	7020
	Digital	7021
	Hybrid	7022
I (6)	ADP Support Equipment	7035
(7)	ADP Components	7050
(8)	ADP Development Services and ADP Teleprocessing and Timesharing Services	D302/ D305
(9)	Gas Turbines and Jet Engines, Aircraft; and Components	2840
(10)	Radar Equipment (except airborne) and Navigation and Navigational Aids (basic research).	5840/ AT31

* The industry categories were derived from Federal Procurement Data System Product and Service Codes Manual.

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PART 1220

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PART 1220

I LABOR SURPLUS AREA CONTRACTING

SUBPART 1220.90- -LOCAL HIRE

1220.9000 Policy. (USCG)

Pub. L. 101-225, Coast Guard Authorization Act of 1989, Section 206, added Section 666 to Title 14 of the United States Code, which requires the U.S. Coast Guard to include a provision for local hire in each contract for construction or services to be performed in whole or in part in a State that has an unemployment rate in excess of the national average rate of unemployment (as determined by the Secretary of Labor).

1220.9001 Solicitation provision and contract clause. (USCG)

The contracting officer shall insert the USCG clause at (TAR) 48 CFR 1252.220-90, Local Hire Provision, in all solicitations and contracts as required by (TAR) 48 CFR 1220.9000.

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PART 1224

PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

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SUBPART 1224.2--FREEDOM OF INFORMATION ACT

1224.202 Policy.

PART 1224

PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

SUBPART 1224.1--PROTECTION OF INDIVIDUAL PRIVACY

1224.102-70 Applicability.

(a) Illustrations of systems of records to which the Privacy Act applies and which shall not be released irrespective of whether the Government or a contractor acting on behalf of the Government is main-taining the records include the following:

(1) Personnel, payroll and background records personal to any officer or employee of DOT, or other person, including his or her residential address;

(2) Medical histories and medical records concerning individ-uals, including applicants for licenses; and

(3) Any other detailed record containing information identifiable with a particular person.

(b) Illustrations of systems of records to which the Privacy Act does not apply include:

(1) Records that are main-tained by a contractor on individuals employed by the contractor in the process of providing goods and services to the Federal government; and

(2) The records generated, when contracting with an educational institution, on contract students pursuant to their attendance (e.g., admission forms, grade reports), provided that they are similar to those maintained under contracts with educational institutions to provide training, generated on students working under the contract relative to their attendance (e.g., admission forms, grade reports), similar to those maintained on other students and are commingled with records of other students.

1224.103 Procedures.

DOT's rules and regulations implementing the Privacy Act of 1974 are located at 49 CFR Part 10.

SUBPART 1224.2--FREEDOM OF INFORMATION ACT

1224.202 Policy.

DOT rules and regulations imple-menting the Freedom of Information Act (FOIA) and the names and addresses of the OA FOIA offices are located in 49 CFR Part 7. Specific contract award information shall be requested from the FOIA office of the OA making the contract award.

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PART 1233

PROTESTS, DISPUTES, AND APPEALS

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PART 1233

PROTESTS, DISPUTES, AND APPEALS

SUBPART 1233.2--DISPUTES AND APPEALS

1233.211 Contracting officer's decision.

For DOT contracts, the Board of Contract Appeals (BCA) referenced at (FAR) 48 CFR 33.211 is the Department of Transportation Board of Contract Appeals (S-20), 400 7th Street, S.W., Washington, DC, 20590. The DOTBCA Rules of Procedure are contained in 48 CFR Chapter 63, Part 6301.

1233.214 Alternative dispute resolution (ADR).

(c) The Administrative Dispute Resolution Act (ADRA), Pub. L. 101-552, authorizes and encourages agencies to use mediation, conciliation, arbitration, and other techniques for the prompt and informal resolution of disputes, and for other purposes. The DOTBCA Alternate Dispute Resolution (ADR) procedures are contained in 48 CFR chapter 63, Section 6302.30, ADR Methods (Rule 30), and will be distributed to the parties, if ADR procedures are used. These procedures may be obtained from the DOTBCA upon request. ADR procedures may be used when:

(1) there is mutual consent by the parties to participate in the ADR process (with consent being obtained either before or after an issue in controversy has arisen);

(2) prior to the submission of a claim; and

(3) in resolution of a formal claim

(d) DOT's Dispute Resolution Specialist in accordance with the ADRA is located in the DOT Office of the General Counsel, C-1. The Dispute Resolution Specialist performs the functions set forth in the Administrative Disputes Resolution Act for DOT operating administrations on a non-reimbursable basis. The Dispute Resolution Specialist may conduct any of the alternative means of dispute resolution set forth in Title 5, U.S.C. Section 581(3), including settlement negotiations under the auspices of a settlement judge, conciliation, facilitation, mediation, fact finding, mini-trials, and arbitration, or any combination of these methods.

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PART 1237

SERVICE CONTRACTING

I SUBPART 1237.1--SERVICE CONTRACTS-- GENERAL

1237.110 Solicitation provisions and contract clauses.

Contracting officers shall insert the clause at (TAR) 48 CFR 1252.237-70, Qualifications of Employees, in all solicitations and contracts for services which require contract performance at a Government facility.

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PART 1237

SERVICE CONTRACTING

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PART 1237

SERVICE CONTRACTING

SUBPART 1237.1--SERVICE CONTRACTS--GENERAL

SUBPART 1237.104--PERSONAL SERVICE S CONTRACTS

1237.104-90 Delegation of authority. (USCG)

(a) Pub. L. 104-106, DOD Authorization Act of 1996, Section 733, added Section 1091(A) to Title 10 of the United States Code, which authorizes contracting authority for personal service contracts for medical treatment facilities for the Coast Guard.

(b) The authority of the Secretary of Transportation under Pub. L. 104-106 to contract for personal service contracts for medical treatment facilities for the Coast Guard is delegated to the HCA with the authority to redelegate to contracting officers under procedures established by the HCA, who will address applicable statutory limitations under Section 1091 of Title 10 U.S.C.

SUBPART 1237.90--MORTUARY SERVICES

1237.9000 Solicitation provisions and contract clauses. (USCG)

(a) The contracting officer shall insert the following clauses in solicitations and contracts for mortuary services. However, USCG clauses (TAR) 48 CFR 1252.237-91 and 1252.237-97 shall not be inserted in solicitations and

contracts that include port of entry requirements:

(1) (TAR) 48 CFR 1252.237-90 , Requirements;

(2) (TAR) 48 CFR 1252.237-91 , Area of Performance;

(3) (TAR) 48 CFR 1252.237-92 , Performance and Delivery;

(4) (TAR) 48 CFR 1252.237-93 , Subcontracting;

(5) (TAR) 48 CFR 1252.237-94 , Termination for Default;

(6) (TAR) 48 CFR 1252.237-95 , Group Interment;

(7) (TAR) 48 CFR 1252.237-96 , Permits;

(8) (TAR) 48 CFR 1252.237-97 , Facility Requirements; and

(9) (TAR) 48 CFR 1252.237-98 , Preparation History.

(b) The contracting officer shall insert USCG provision (TAR) 48 CFR 1252.237-99, Award to Single Offeror, in all sealed bid solicitations for mortuary services. Use the basic provision with Alternate I in negotiated solicitations for mortuary services.

(c) The contracting officer shall insert (FAR) 48 CFR 52.245-4, Government-Furnished Property (Short Form) in solicitations and contracts that include port of entry requirements.

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PART 1247

TRANSPORTATION

SUBPART 1247.1--GENERAL

1247.104-370 Contract clause.

The contracting officer shall insert the clause at (TAR) 48 CFR 1252.247-70, Acceptable Service at Reduced Rates, to implement the requirements of (FAR) 48 CFR 47.104-3.

SUBPART 1247.3--TRANSPORTATION IN SUPPLY CONTRACTS

1247.305 Solicitation provisions, contract clauses, and transportation factors.

1247.305-70 Solicitation provisions.

The contracting officer shall insert the following provisions in solicitations, as applicable:

(a) (TAR) 48 CFR 1252.247-71, F.o.b. Origin Information, with Alternates I or II, as applicable, shall be inserted in accordance with (FAR) 48 CFR 47.305-3(b);

(b) (TAR) 48 CFR 1252.247-72, F.o.b. Origin Only, shall be inserted in accordance with (FAR) 48 CFR 47.305-3(e);

(c) (TAR) 48 CFR 1252.247-73, F.o.b. Destination Only, shall be inserted in accordance with (FAR) 48 CFR 47.305-4(b);

(d) (TAR) 48 CFR 1252.247-74, Shipments to Ports and Air Terminals, with Alternates I, II, and III, shall be inserted in accordance with (FAR) 48 CFR 47.305-6(a)(1) through (a)(4);

(e) (TAR) 48 CFR 1252.247-75, F.o.b. Designated Air Carrier's Terminal, Point of Exportation, implements the requirements of (FAR) 48 CFR 47.305-6(a)(5); and

(f) (TAR) 48 CFR 1252.247-76, Nomination of Additional Ports, implements the requirements of (FAR) 48 CFR 47.305-6(d).

1247.305-71 Contract clause.

The contracting officer shall insert the clause at (TAR) 48 CFR 1252.247-77, Supply Movement in the Defense Transportation System, in contracts to implement the requirements of (FAR) 48 CFR 47.305-6(f)(1).

SUBPART 1247.5--OCEAN TRANSPORTATION BY U.S.-FLAG VESSELS

1247.506 Procedures.

(d) Reports concerning cargo preference shipments/ocean shipments (see (FAR) 48 CFR 47.506(d)) shall, as a minimum, contain the information and follow the procedures within subparagraph (c) of (FAR) 48 CFR 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels.

PART 1252

Subcontracting Reporting.

**SOLICITATION PROVISIONS AND
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PART 1252

SOLICITATION PROVISIONS AND CONTRACT CLAUSES

SUBPART 1252.1--INSTRUCTIONS FOR USING PROVISIONS AND CLAUSES

1252.101 Using Part 1252.

(b) Numbering.

(2)(i) *Provisions or clauses that supplement the FAR.*

(A) Agency-prescribed provisions and clauses permitted by TAR and used on a standard basis (i.e., normally used in two or more solicitations or contracts regardless of contract type) shall be prescribed and contained in the TAR. OAs desiring to use a provision or a clause on a standard basis shall submit a request containing a copy of the clause(s), justification for its use, and evidence of legal counsel review to M-60 in accordance with (TAR) 48 CFR 1201.304 for possible inclusion in the TAR.

(B) Provisions and clauses used on a one-time basis (i.e., non-standard provisions and clauses) may be approved by the contracting officer, unless a higher level is designated by the OA. This authority is permitted subject to: [1] evidence of legal counsel review in the contract file; [2] inserting these clauses in the appropriate sections of the uniform contract format; and [3] ensuring the provisions and clauses do not deviate from the requirements of the FAR and TAR.

SUBPART 1252.2--TEXTS OF PROVISIONS AND CLAUSES

1252.209-70 Disclosure of conflicts of interest.

As prescribed in 1209.507, insert the following provision:

DISCLOSURE OF CONFLICTS OF INTEREST

(OCT 1994)

It is the Department of Transportation's (DOT) policy to award contracts to only those offerors whose objectivity is not impaired because of any related past, present, or planned interest, financial or otherwise, in organizations regulated by DOT or in organizations whose interests may be substantially affected by Departmental activities. Based on this policy:

(a) The offeror shall provide a statement in its proposal which describes in a concise manner all past, present or planned organizational, financial, contractual or other interest(s) with an organization regulated by DOT, or with an organization whose interests may be substantially affected by Departmental activities, and which is related to the work under this solicitation. The interest(s) described shall include those of the proposer, its affiliates, proposed consultants, proposed subcontractors and key personnel of any of the above. Past interest shall be limited to within one year of the date of the offeror's technical proposal. Key personnel shall include any person owning more than 20% interest in the offeror, and the offeror's corporate officers,

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its senior managers and any employee who is responsible for making a decision or taking an action on this contract where the decision or action can have an economic or other impact on the interests of a regulated or affected organization.

(b) The offeror shall describe in detail why it believes, in light of the interest(s) identified in (a) above, that performance of the proposed contract can be accomplished in an impartial and objective manner.

(c) In the absence of any relevant interest identified in (a) above, the offeror shall submit in its proposal a statement certifying that to its best knowledge and belief no affiliation exists relevant to possible conflicts of interest. The offeror must obtain the same information from potential subcontractors prior to award of a subcontract.

(d) The Contracting Officer will review the statement submitted and may require additional relevant information from the offeror. All such information, and any other relevant information known to DOT, will be used to determine whether an award to the offeror may create a conflict of interest. If any such conflict of interest is found to exist, the Contracting Officer may (1) disqualify the offeror, or (2) determine that it is otherwise in the best interest of the United States to contract with the offeror and include appropriate provisions to mitigate or avoid such conflict in the contract awarded.

(e) The refusal to provide the disclosure or representation, or any additional information required, may result in disqualification of the offeror for award. If nondisclosure or misrepresentation is discovered after award,

the resulting contract may be terminated. If after award the Contractor discovers a conflict of interest with respect to the contract awarded as a result of this solicitation, which could not reasonably have been known prior to award, an immediate and full disclosure shall be made in writing to the Contracting Officer. The disclosure shall include a full description of the conflict, a description of the action the contractor has taken, or proposes to take, to avoid or mitigate such conflict. The Contracting Officer may, however, terminate the contract for convenience if he or she deems that termination is in the best interest of the Government.

(End of provision)

1252.211-70 Brand Name or Equal.

As prescribed in (TAR) 48 CFR 1211.204, insert the following provision:

BRAND NAME OR EQUAL (OCT 1996)

(As used in this provision, the term "brand name" includes identification of products by make and model.)

(a) If items called for by this solicitation have been identified in the schedule by a "brand name or equal" description, such identification is intended to be descriptive, but not restrictive, and is intended to indicate the quality and characteristics of products that will be satisfactory. Offers offering "equal" products (including products of the brand name manufacturer other than the one described by brand name) will be considered for award if such products are clearly identified in the offers and are determined by

the Government to meet fully the salient characteristic requirements listed in the solicitation.

(b) Unless the offeror clearly indicates in its offer that it is offering an "equal" product, its offer shall be considered as offering the brand name product referenced in the solicitation.

(c) If the offeror proposed to furnish an "equal" product, the brand name, if any, of the product to be furnished shall be inserted in the space provided in the solicitation, or such product shall be otherwise clearly identified in the offer. The evaluation of offers and the determination as to equality of the product offered shall be the responsibility of the Government and will be based on information furnished by the offeror or identified in its offer as well as other information reasonably available to the contracting office.

CAUTION TO OFFERORS: The contracting office is not responsible for locating or securing any information which is not identified in the offer and reasonably available to the contracting office. Accordingly, to insure that sufficient information is available, the offeror must furnish as a part of its offer all descriptive material (such as cuts, illustrations, drawings, or other information) necessary for the contracting office to: (1) determine whether the product offered meets the salient characteristic requirements of the solicitation; and (2) establish exactly what the offeror proposes to furnish and what the Government would be binding itself to acquire by making an award. The information furnished may include specific reference to information

previously furnished or to information otherwise available to the contracting office.

(d) If the offeror proposes to modify a product so as to make it conform to the requirements of the solicitation, it shall: (1) include in its offer a clear description of such proposed modifications; and (2) clearly mark any descriptive material to show the proposed modifications.

(e) Modifications to make a product conform to a brand name product referenced in the solicitation and proposed after the time for receipt of offers, will not be considered.

(End of provision)

1252.211-71 Index for specifications.

As prescribed in (TAR) 48 CFR 1211.204, insert the following clause:

INDEX FOR SPECIFICATIONS (OCT 1996)

If an index or table of contents is furnished in connection with specifications, it is understood that such index or table of contents is for convenience only. Its accuracy and completeness is not guaranteed, and it is not to be considered as part of the specification. In case of discrepancy between the index or table of contents and the specifications, the specifications shall govern.

(End of clause)

1252.215-70 Key personnel and/or facilities.

As prescribed in (TAR) 48 CFR 1215.106, insert the following clause:

**KEY PERSONNEL AND/OR FACILITIES
(OCT 1994)**

(a) The personnel and/or facilities as specified below

are considered essential to the work being performed hereunder and may, with the consent of the contracting parties, be changed from time to time during the course of the contract by adding or deleting personnel and/or facilities, as appropriate.

(b) Prior to removing, replacing, or diverting any of the specified individuals or facilities, the Contractor shall notify, in writing, and receive consent from, the Contracting Officer reasonably in advance of the action and shall submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on this contract.

(c) No diversion shall be made by the Contractor without the written consent of the Contracting Officer. The Contracting Officer may ratify, in writing, the change and such ratification shall constitute the consent of the Contracting Officer required by this clause.

The Key Personnel and/or Facilities under this Contract:

*(specify key personnel
and/or facilities)*
(End of clause)

1252.216-70 Evaluation of offers subject to an economic price adjustment clause.

As prescribed in (TAR) 48 CFR 1216.203-470, insert the following provision:

**EVALUATION OF OFFERS SUBJECT TO
AN ECONOMIC PRICE ADJUSTMENT
CLAUSE (OCT 1994)**

Offers shall be evaluated without an amount for an economic price adjustment being added. Offers will be rejected which: (1) increase the ceiling stipulated; (2) limit the downward

adjustment; or (3) delete the economic price adjustment clause. If the offer stipulates a ceiling lower than that included in the solicitation, the lower ceiling will be incorporated into any resulting contract.

(End of provision)

1252.216-71 Determination of award fee.

As prescribed in (TAR) 48 CFR 1216.405(a), insert the following clause:

**DETERMINATION OF AWARD FEE
(OCT 1994)**

(a) The Government shall, at the conclusion of each specified evaluation period(s), evaluate the contractor's performance for a determination of award fee earned. The contractor agrees that the determination as to the amount of the award fee earned will be made by the Government Fee Determination Official (FDO) and such determination is binding on both parties and shall not be subject to appeal under the "Disputes" clause or to any board or court.

(b) It is agreed that the evaluation of contractor performance shall be in accordance with a Performance Evaluation Plan and that the contractor shall be promptly advised in writing of the determination and reasons why the award fee was or was not earned. It

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Contractor Report of Government Property.

(End of clause)

I 1252.247-70 Acceptable service at reduced rates.

As prescribed in (TAR)48 CFR 1247.104-370, insert the following clause:

I ACCEPTABLE SERVICE AT REDUCED RATES (OCT 1996)

The Contractor is to use carriers that offer acceptable service at reduced rates, if available, to transport supplies under this contract.

(End of clause)

I 1252.247-71 F.o.b. origin information.

As prescribed in (TAR)48 CFR 1247.305-70, insert the following provision:

I F.O.B. ORIGIN INFORMATION (OCT 1996)

The offeror shall furnish information with the offer:

(a) Location of the offeror's actual shipping point(s) (street address, city, state, and zip code) from which supplies will be delivered to the Government;

(b) Whether the offered shipping point has a private railroad siding and the name of the rail carrier serving it;

(c) When the offered shipping point does not have a private siding, the names and addresses

of the nearest public rail siding and of the carrier serving it; and

(d) The quantity of supplies to be shipped from each shipping point.

(End of provision)

ALTERNATE I (OCT 1996) I

If delivery is "f.o.b. origin, contractor's facility," and the designated facility is not covered by the line-haul transportation rate, add the following paragraph to the basic provision:

(e) The charges required to deliver the shipment to the point where the line-haul rate is applicable.

ALTERNATE II (OCT 1996) I

When delivery is "f.o.b. origin, freight allowed," add the following paragraph to the basic provision:

(e) The basis on which transportation charges will be allowed, including the origin and destination from and to which transportation charges will be allowed.

1252.247-72 F.o.b. origin only. I

As prescribed in (TAR)48 CFR 1247.305-70, insert the following provision:

F.O.B. ORIGIN ONLY (OCT 1996) I

Offers are invited on the basis of f.o.b. origin only. Offers submitted on any other basis will be rejected as nonresponsive.

(End of provision)

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I 1252.247-73 F.o.b. destination only.

As prescribed in (TAR)48 CFR 1247.305-70, insert the following provision:

I F.O.B. DESTINATION ONLY (OCT 1996)

Offers are invited on the basis of f.o.b. destination only. Offers submitted on any other basis will be rejected as nonresponsive.

(End of provision)

I 1252.247-74 Shipments to ports and air terminals.

As prescribed in (TAR)48 CFR 1247.305-70, insert the following provision:

I SHIPMENTS TO PORTS AND AIR TERMINALS (OCT 1996)

The Offeror shall furnish the following information with the offer:

(a) A delivery schedule in number of units and/or long or short tons;

(b) Maximum quantities available per shipment; and

(c) Other data appropriate to shipment by air carrier.

(End of provision)

I ALTERNATE I (OCT 1996)

When the delivery term is "ex dock, pier or warehouse, port of importation" or "c.& f. destination," substitute the following

paragraph (c) for the paragraph (c) of the basic provision:

(c) The number of containers or units that can be loaded in a car, truck, or other conveyance of the size normally used (specify type and size) for the commodity.

ALTERNATE II (OCT 1996) I

When the delivery term is "f.a.s. vessel, port of shipment," "f.o.b. vessel, port of shipment," or "f.o.b. inland carrier, point of exportation," substitute the following paragraphs (c), (d) and (e) for the paragraph (c) of the basic provision:

(c) The quantity that can be made available for loading to vessel per running day of 24 hours (if acquisition involves a commodity to be shipped in bulk);

(d) The minimum leadtime required to make supplies available for loading to vessel; and

(e) The port and pier or other designation and, when applicable, the maximum draft of vessel (in feet) that can be accommodated. I

ALTERNATE III (OCT 1996)

When the delivery term is "c.i.f. destination," substitute the following paragraphs (c) and (d) for the paragraph (c) of the basic provision:

(c) The number of containers or units that can be loaded in a car, truck, or other conveyance of the size normally used (specify type and size) for the commodity; and

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(d) The amount and type of marine insurance coverage; e.g., whether the coverage is "With Average" or "Free of Particular Average" and whether it covers any special risks or excludes any of the usual risks associated with the specific commodity involved.

1252.247-75 F.o.b. Designated air carrier's terminal, point of exportation.

As prescribed in (TAR)48 CFR 1247.305-70, insert the following provision:

F.O.B. DESIGNATED AIR CARRIER'S TERMINAL, POINT OF EXPORTATION (OCT 1996)

The Offeror shall furnish the following information with the offer:

(a) A delivery schedule in number of units, type of package, and individual weight and dimensions of each package;

(b) Minimum leadtime required to make supplies available for loading into aircraft;

(c) Name of airport and location to which shipment will be delivered; and

(d) Other data appropriate to shipment by air carrier.

(End of provision)

1252.247-76 Nomination of additional ports.

As prescribed in (TAR)48 CFR 1247.305-70, insert the following provision:

NOMINATION OF ADDITIONAL

PORTS (OCT 1996)

(a) Offerors may nominate additional ports (including ports in Alaska and Hawaii) more favorably located to their shipping points; and

(b) These ports will be considered in the evaluation of offers if they possess all requisite capabilities of the listed ports in relation to the supplies being acquired.

(End of provision)

1252.247-77 Supply movement in the Defense Transportation System.

As prescribed in (TAR)48 CFR 1247.305-71, insert the following clause:

SUPPLY MOVEMENT IN THE DEFENSE TRANSPORTATION SYSTEM (OCT 1996)

(a) The Contractor shall dispatch a Transportation Control Movement Document (TCMD) to the appropriate DOD air or water clearance authority in accordance with MILSTAMP procedures for all shipments consigned to DOD air or water terminal transshipment points; and

(b) An Export Release must be obtained for supplies to be transshipped via a water port of loading to overseas destination, except for shipments for which an Export Release is not required, generally shipments of less than 10,000 pounds, (see paragraph 202024 of the Military Traffic Management Regulation, AR 55-355, NAVSUP 4600.70, MCO 4600.14A, AFM 75-2, DLAR 45003).

(End of clause)

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PART 1252

SOLICITATION PROVISIONS AND CONTRACT CLAUSES

SUBPART 1252.2--TEXTS OF PROVISIONS AND CLAUSES

I 1252.211-90 Bar coding requirement. (USCG)

I As prescribed in USCG guidance at (TAR) 48 CFR 1211.204-90 and 1213.507-90, insert the following clause:

I BAR CODING REQUIREMENTS (OCT 1996)

Item markings shall include bar coding in accordance with MIL-STD-1189 as clarified below:

(a) The stock number shall be bar coded with no prefixes, dashes, spaces, or suffixes encoded. The contract number, the delivery order, or call order number, when used, shall be bar coded with no spaces or dashes encoded.

(b) Prefixes and suffixes to the stock number may be included in the OCR-A in-the-clear markings, but not in the bar code.

(c) Preferred Bar Code Density(characters per inch as defined in MIL-STD-1189) is "standard," but densities from "standard" to "low" are acceptable.

(d) OCR-A characters do not have to be machine readable.

(e) Bar coding shall be machine readable.

(f) Unless otherwise specified herein, minimum bar code height shall be 0.25 inch (6.4 mm) or 15 percent of the bar code

length, whichever is greater.

(g) The preferred position of the OCR-A characters is below the bar codes, but the OCR-A characters may be above the bar codes.

(h) On outer containers con-tractors shall either:

(1) Encode the stock numbers and contract number in one line of bar code with the stock number appearing first; or

(2) Encode the item stock number and contract number on two labels, with the top label containing the stock number and the lower label containing the contract number.

(i) On unit and intermediate containers, the item stock number in bar code with OCR-A below may be on the same label as the other data (identification markings) required by MIL-STD-129H. However, the bar code stock number shall appear on the top line with OCR-A characters on the second line; the OCR-A characters may include the stock number prefix and suffix, or alternatively, the complete stock number including any prefix and suffix, shall be repeated as part of the identification markings.

(j) Exclusions from bar code markings are:

(1) Multi-packs/consolidation containers (containers with two or more different stock numbers within).

(2) Reusable shipping containers used for multiple/ different stock number applications.

(3) Items consigned to a prime contractor's plant for installation in

production.

(End of clause)

1252.213-90 Evaluation factor for Coast Guard performance of bar coding requirement. (USCG)

As prescribed in USCG guidance at (TAR) 48 CFR 1213.107-90, insert the following provision:

**EVALUATION FACTOR FOR COAST GUARD
PERFORMANCE OF BAR CODING REQUIREMENT (OCT 1994)**

If a small business cannot provide the bar coding requirement, as indicated elsewhere in the schedule, the contracting officer will apply the following formula to the quoted amounts:

- (a) Unit price quoted by small business
\$ _____
- (b) Add unit cost to the USCG to provide bar coding \$ _____
- (c) Adjusted unit price (add lines a. and b.)
\$ _____

The line (c) amount will become the amount the contracting officer considered when determining the lowest quoted amount.

(End of provision)

1252.220-90 Local hire. (USCG)

As prescribed in USCG guidance at (TAR) 48 CFR 1220.9001, insert the following clause:

LOCAL HIRE (OCT 1994)

The Contractor shall employ, for the purpose of performing this contract in whole or in part in a State that has an unemployment rate in excess of the national average rate of unemployment (as

defined by the Secretary of Labor), individuals who are local residents and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills. Local Resident means a resident or an individual who commutes daily to that State.

(End of clause)

1252.228-90 Notification of Miller Act payment bond protection. (USCG)

As prescribed in USCG guidance at (TAR) 48 CFR 1228.9000, insert the following clause:

**NOTIFICATION OF MILLER ACT
PAYMENT BOND PROTECTION (OCT 1994)**

This notice clause shall be inserted by first tier subcontractors in all their subcontracts and shall contain the surety which has provided the payment bond under the prime contract.

(a) The prime contract is subject to the Miller Act (40 USC 270), under which the prime contractor has obtained a payment bond. This payment bond may provide certain unpaid employees, suppliers, and subcontractors a right to sue the bonding surety under the Miller Act for amounts owned for work performed and materials delivery under the prime contract.

(b) Persons believing that they have legal remedies under the Miller Act should consult their legal advisor regarding the proper steps to take to obtain these remedies. This notice clause does not provide any party any rights against the Federal Government, or create any relationship, contractual or otherwise, between the Federal Government and any private party.

(c) The surety which has provided the payment bond under the prime contract is:

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